

REMARKS

Claims 1 – 11 are presented for reconsideration and further examination in view of the foregoing amendments and the following remarks.

In the outstanding Office Action, the Examiner withdrew the rejections of claims 1 and 4 – 6 under 35 U.S.C. §103(a) as being unpatentable over U.S. patent no. 4,357,384 to Jasperson (hereinafter referred to as “the Jasperson ‘384 patent”) in view of U.S. patent no. 3,775,916 to Bair (hereinafter referred to as “the Bair ‘916 patent”) in further view of U.S. patent no. 4,620,404 to Rizk (hereinafter referred to as “the Rizk ‘404 patent”) and withdrew the rejections of claims 1, 4 and 8 – 9 under 35 U.S.C. §103(a) as being unpatentable over the Jasperson ‘384 patent in view of the Bair ‘916 patent in further view of U.S. patent no. 5,826,389 to Siler.

However, the Examiner renewed the rejections of claims 1 – 2 and 10 as being anticipated by the Jasperson ‘384 patent; renewed the rejection of claims 1 – 3 as being unpatentable over the Jasperson ‘384 patent; renewed the rejection of claims 1, 4 and 7 as being unpatentable over the Jasperson ‘384 patent in view of the Bair ‘384 patent; and renewed the rejection to claims 1 and 11 as being unpatentable over the Jasperson ‘384 reference in view of U.S. patent no. 4,357,384 to Schupack.

Also, the Examiner withdrew newly submitted method claims 12 – 14 as being directed toward a non-elected invention.

By this Response and Amendment, the Examiner’s 35 U.S.C. §§102(b) and 103(a) rejections are traversed. It is respectfully submitted that no new matter within the meaning of 35 U.S.C. §132 has been added.

Examiner's Withdrawal of Newly Submitted Claims

The Examiner withdrew claims 12 – 14 as being directed toward a non-elected invention, asserting that the invention of device claims 1 – 11 was constructively elected by original presentation for prosecution on the merits

Response

By this Response and Amendment, Applicants acquiesce to the Examiner's withdrawal of claims 12 – 14 and ask that such withdrawal be made without prejudice or disclaimer.

Rejection Under 35 U.S.C. §102(b)

The Examiner rejected claims 1 – 2 and 10 as being anticipated by the Jasperson '384 patent.

Response

By this Response and Amendment, the Examiner's rejections of claims 1, 2 and 10 are respectfully traversed. Applicant notes the Examiner's Interview Summary (attached herewith) wherein the Examiner indicated that "[C]laim 1 overcomes the Jasperson reference."

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection to claim 1. Moreover, since claims 2 and 10 depend directly from claim 1, they contain all of the limitations thereof. Thus, claims 2 and 10 are patentable over the cited prior art for at least the same reasons as claim 1. Accordingly, reconsideration and withdrawal of the rejections of claims 2 and 10 is also respectfully requested.

Rejections Under 35 U.S.C. §103(a)

1. The Jasperson '384 Patent

The Examiner rejected claims 1 – 3 as being unpatentable over the Jasperson '384 patent.

Response

By this Response and Amendment, the Examiner's rejections of claims 1 – 3 are respectfully traversed. The argument made with respect to the rejections of claims 1, 2 and 10 under §102(b) is herein incorporated by reference. In particular, Applicant notes the Examiner's Interview Summary (attached herewith) wherein the Examiner indicated that "[C]laim 1 overcomes the Jasperson reference."

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection to claim 1. Moreover, since claims 2 and 3 depend directly or indirectly from claim 1, they contain all of the limitations thereof. Thus, claims 2 and 3 are patentable over the cited prior art for at least the same reasons as claim 1. Accordingly, reconsideration and withdrawal of the rejections of claims 2 and 3 is also respectfully requested.

2. The Jasperson '384 Patent In View Of The Bair '916 Patent

The Examiner rejected claims 1, 4 and 7 as being unpatentable over the Jasperson '384 patent in view of the Bair '916 patent.

Response

By this Response and Amendment, Applicants respectfully traverse the Examiner's rejections. The arguments made with respect to the rejections of claims 1, 2 and 10 under §102 and with respect to the rejections of claims 1 and 3 under §103 are incorporated herein by reference. In particular, Applicants note the Examiner's Interview Summary (attached herewith) wherein the Examiner indicated that "[C]laim 1 overcomes the Jasperson reference."

The Bair '916 patent does not make up for the deficiencies of the Jasperson '384 patent. The Bair '916 patent teaches a multi-layer wall panel that has a sandwich construction comprising an outer layer of masonry building units, a principally load-bearing layer of cementitious material, and an insulating layer. More particularly, as shown in Figs. 3 – 4, an outer masonry layer 10 is mounted on a load bearing cementitious layer 11. An insulating layer 12 is mounted to a face of the cementitious layer opposite masonry layer 10. Vertical and horizontal support beams 18 and 20, disposed along sides of the panel, are mounted to a face of the cementitious material opposite the masonry layer, within the depth of the insulating layer (*see* col. 2, lone 67 – col. 3, line 6). However, the Bair '916 patent nowhere discloses a support frame that is formed of a same fiber-reinforced cementitious material that is *continuous* with the cementitious material of the first and second face panels. Moreover, the Bair '916 patent nowhere discloses a support frame of a same cementitious material being located *between* first and second face panels as recited in independent claim1.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection to claim 1. Moreover, since claims 4 and 7 depend directly or indirectly from claim 1, they contain all of the limitations thereof. Thus, claims 4 and 7 are patentable over the cited

prior art for at least the same reasons as claim 1. Accordingly, reconsideration and withdrawal of the rejections of claims 2 and 3 is also respectfully requested.

3. The Jasperson '384 Patent In View of The Schupack '219 Patent

The Examiner rejected claims 1 and 11 as being unpatentable over the Jasperson '384 patent in view of the Schupack '219 patent.

Response

By this Response and Amendment, Applicants respectfully traverse the Examiner's rejections. The arguments made with respect to the rejections of claims 1, 2 and 10 under §102 and with respect to the rejections of claims 1 and 3 under §103 are incorporated herein by reference. In particular, Applicants note the Examiner's Interview Summary (attached herewith) wherein the Examiner indicated that "[C]laim 1 overcomes the Jasperson reference."

The Schupack '219 patent does not make up for deficiencies of the Jasperson '384 patent. The Schupack '219 patent teaches a reinforced cement structure having at least one nonwoven spatial fabric-reinforcing layer. The Schupack '219 patent nowhere discloses a support frame that is formed of a same fiber-reinforced cementitious material that is *continuous* with the cementitious material of the first and second face panels. Moreover, the Schupack '219 patent nowhere discloses a support frame of a same cementitious material being located *between* first and second cementitious face panels.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw

the rejection to claim 1. Moreover, since claim 11 depends directly from claim 1, they contain all of the limitations thereof. Thus, claim 11 is patentable over the cited prior art for at least the same reasons as claim 1. Accordingly, reconsideration and withdrawal of the rejections of claim 11 is also respectfully requested.

CONCLUSION

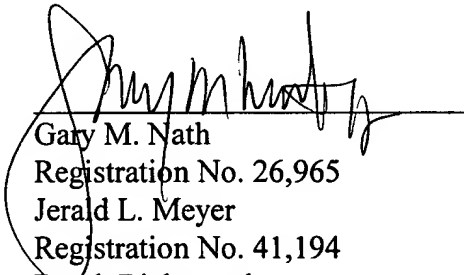
In light of the foregoing, Applicants submit that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

Respectfully submitted,

NATH & ASSOCIATES PLLC

Date: September 17, 2004
NATH & ASSOCIATES PLLC
1030 15TH Street, NW - 6th Floor
Washington, D.C. 20005

By:



Gary M. Nath
Registration No. 26,965
Jerald L. Meyer
Registration No. 41,194
Derek Richmond
Registration No. 45,771
Customer No. 20259